IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 16707 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE A.R.DAVE
and
HON'BLE MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NILESH ENTERPRISES

Versus

COMMISSIONER OF SALES TAX AND OTHERS

Appearance:

1. Special Civil Application No. 16707 of 2003
MR ANSHIN H DESAI for Petitioner No. 1
MR SIRAJ GORI, A.G.P. for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE A.R.DAVE
and
HON'BLE MR.JUSTICE K.A.PUJ

Date of decision: 12/12/2003

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE A.R.DAVE)

Leave to amend the cause title.

1. RULE. Service of rule is waived by learned A.G.P. Shri Siraj Gori for the respondents. At the request of the learned advocates, the petition is finally heard today.

2. The petitioner has been aggrieved by an action of the respondents whereby the respondent authorities have detained three trucks bearing Nos. JKC-25-8525, JK-02-U-8525 and GJ-11-W-4062 alongwith goods (groundnut).

3. In pursuance of notice issued by this Court, an affidavit-in reply has been filed by Shri R.M. Chudasama, Sales-tax Officer-2, Unit-2, Junagadh. It has been submitted by learned A.G.P. Shri Siraj Gori for the respondent authorities that certain proceedings with regard to assessment for earlier period is pending and, therefore, in the interest of the revenue, the said trucks have been detained so that the tax payable by the petitioner can be recovered by selling the goods in question if the petitioner does not pay the dues.

4. Looking to the facts of the case, without going into the merits of the matter, especially when the assessment proceedings are pending, so as to protect the interest of the revenue, it is ordered that the petitioner shall furnish bank guarantee to the tune of Rs. 5 lakhs to the concerned Sales-tax Officer having his office at Junagadh, which shall remain in force till the assessment in respect of the goods seized is made and the amount of sales tax and other amount like penalty, interest etc. in respect thereof is paid by the petitioner.

5. The petitioner shall also give an undertaking to this Court to the effect that the agricultural land, which has been described in Account No. 169 of Khedut Pothi bearing No. 154, admeasuring 48 Hectares and 56 Are shall not be sold or disposed of or no right of whatsoever type shall be created in favour of any person in respect of the said land. The said undertaking shall be given to this Court and a copy thereof shall be given to the concerned Sales-tax Officer having his office at Junagadh.

6. Upon furnishing the bank guarantee and filing an undertaking as referred to hereinabove, the respondent authorities shall release the trucks which have been detained by them.

7. It is clarified that no observation on merits of the case has been made by this Court but so as to protect the interest of the revenue, the aforesaid arrangement is being made by this order so that the goods belonging to the petitioner may not be spoiled.

8. In view of the above order the petition stands disposed of. Rule is made absolute to the above extent with no order as to costs. Direct service is permitted so far as respondents nos. 1 and 2 are concerned.

(A.R. DAVE, J.)

(K.A. PUJ, J.)

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